AMENDED IN ASSEMBLY JUNE 24, 2014

AMENDED IN ASSEMBLY JUNE 10, 2014

AMENDED IN SENATE MAY 7, 2014

AMENDED IN SENATE APRIL 9, 2014

SENATE BILL No. 985

Introduced by Senator Pavley

February 11, 2014

An act to amend Sections 10561, 10562, 10563, and 10573 of, and to add Sections 10561.5 and 10565 to, the Water Code, relating to stormwater.

LEGISLATIVE COUNSEL'S DIGEST

SB 985, as amended, Pavley. Stormwater resource planning.

Existing law, the Stormwater Resource Planning Act, authorizes a city, county, or special district, to develop a stormwater resource plan that meets certain standards.

This bill would expand those standards to include dry weather runoff. This bill would require a stormwater resource plan to identify and prioritize stormwater and dry weather runoff capture projects for implementation in a prescribed quantitative manner and to prioritize the use of lands or easements in public ownership for stormwater and dry weather runoff projects. This bill would eliminate the requirement that a stormwater resource plan be consistent with any applicable integrated regional water management plan. This bill would require an entity developing a stormwater resource plan to identify in the plan opportunities to use existing publicly owned lands and easements to capture, clean, store, and use stormwater and dry weather runoff *either onsite or offsite*. This bill would require the State Water Resources

Control Board, by July 1, 2016, to establish a policy for compliance with these provisions. This bill would require the development of a stormwater resource plan and compliance with these provisions to receive grants for stormwater and dry weather runoff capture projects from a bond act approved by the voters after January 1, 2014, *except as provided*. This bill would define dry weather runoff and stormwater for the purposes of the act and conform the definition of stormwater in the Rainwater Capture Act of 2012.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 10561 of the Water Code is amended to read:

10561. The Legislature hereby finds and declares all of the following:

(a) In many parts of the state stormwater and dry weather runoff are underutilized sources of surface water and groundwater supplies. Instead of being viewed as a resource, they are often seen as a problem that must be moved to the ocean as quickly as possible or as a source of contamination, contributing to a loss of usable water supplies and the pollution and impairment of rivers, lakes, streams, and coastal waters.

(b) Improved management of stormwater and dry weather runoff, including capture, treatment, and reuse by using the natural functions of soils and plants, can improve water quality, reduce localized flooding, and increase water supplies for beneficial uses and the environment.

(c) Most of California's current stormwater drainage systems are designed to capture and convey water away from people and property rather than capturing that water for beneficial uses.

(d) Historical patterns of precipitation are predicted to change and an increasing amount of California's water is predicted to fall not as snow in the mountains, but as rain in other areas of the state. This will likely have a profound and transforming effect on California's hydrologic cycle and much of that water will no longer be captured by California's reservoirs, many of which are located to capture snow melt.

(e) When properly designed and managed, the capture and use of stormwater and dry weather runoff can contribute significantly to local water supplies through onsite storage and use, or letting it infiltrate into the ground to recharge groundwater, either onsite or at regional facilities, thereby increasing available supplies of drinking water.

(f) New developments and redevelopments should be designed to be consistent with low-impact development principles to improve the retention, use, and infiltration of stormwater and dry weather runoff onsite or at regional facilities.

(g) Stormwater and dry weather runoff can be managed to achieve environmental and societal benefits such as wetland creation *and restoration*, riverside habitats, instream flows, and an increase in *park and recreation lands, and* urban green space.

(h) Stormwater and dry weather runoff management through multiobjective projects can achieve additional benefits, including augmenting recreation opportunities for communities, increased tree canopy, reduced urban heat island effect, and improved air quality.

(i) Proper planning and implementation is vital to ensure that the water supply and other benefits potentially available through better management of stormwater and dry weather runoff do not come at the expense of diminished water quality.

(j) The capture and use of stormwater and dry weather runoff is not only one of the most cost-effective sources of new water supplies, it is a supply that can often be provided using significantly less energy than other sources of new water supplies.

SEC. 2. Section 10561.5 is added to the Water Code, to read:

10561.5. Solely for the purposes of this part, and unless the context otherwise requires, the following definitions govern the construction of this part:

(a) “Dry weather runoff” means surface waterflow and waterflow in storm drains, flood control channels, or other means of runoff conveyance produced by nonstormwater resulting from irrigation, residential, commercial, and industrial activities.

(b) “Stormwater” means temporary surface water runoff and drainage generated by immediately preceding storms. This definition shall be interpreted consistent with the definition of “stormwater” in Section 122.26 of Title 40 of the Code of Federal Regulations.

SEC. 3. Section 10562 of the Water Code is amended to read:

10562. (a) A city, county, or special district, either individually or jointly, may develop a stormwater resource plan pursuant to this part.

(b) A stormwater resource plan shall:

(1) Be developed on a watershed basis.

(2) Identify and prioritize stormwater and dry weather runoff capture projects for implementation in a quantitative manner, using a metrics-based and integrated evaluation and analysis of multiple benefits to maximize water supply, water quality, flood management, environmental, and other community benefits within the watershed.

(3) Provide for multiple benefit project design to maximize water supply, water quality, and environmental and other community benefits.

(4) Provide for community participation in plan development and implementation.

(5) Be consistent with, and assist in, compliance with total maximum daily load (TMDL) implementation plans and applicable national pollutant discharge elimination system (NPDES) permits.

(6) Be consistent with all applicable waste discharge permits.

(7) Prioritize the use of lands or easements in public ownership for stormwater and dry weather runoff projects.

(c) The proposed or adopted plan shall meet the standards outlined in this section. The plan need not be referred to as a "stormwater resource plan." Existing planning documents may be utilized as a functionally equivalent plan, including, but not limited to, watershed management plans, integrated resource plans, urban water management plans, or similar plans. If a planning document does not meet the standards of this section, a collection of local and regional plans may constitute a functional equivalent, if the plans collectively meet all of the requirements of this part.

(d) An entity developing a stormwater resource plan shall identify in the plan all of the following:

(1) Opportunities to augment local water supply through groundwater recharge or storage for beneficial use of stormwater and dry weather runoff.

(2) Opportunities for source control for both pollution and stormwater and dry weather runoff volume, onsite and local infiltration, and use of stormwater and dry weather runoff.

(3) Projects to reestablish natural water drainage treatment and infiltration systems, or mimic natural system functions to the maximum extent feasible.

(4) Opportunities to develop, restore, or enhance habitat and open space through stormwater and dry weather runoff management, including wetlands, riverside habitats, parkways, and parks.

(5) Opportunities to use existing publicly owned lands and easements, including, but not limited to, parks, public open space, community gardens, farm and agricultural preserves, schoolsites, and government office buildings and complexes, to capture, clean, store, and use stormwater and dry weather runoff *either onsite or offsite*.

(6) Design criteria and best management practices to prevent stormwater and dry weather runoff pollution and increase effective stormwater and dry weather runoff management for new and upgraded infrastructure and residential, commercial, industrial, and public development. These design criteria and best management practices shall accomplish all of the following:

(A) Reduce effective impermeability within a watershed by creating permeable surfaces and directing stormwater and dry weather runoff to permeable surfaces, retention basins, cisterns, and other storage for beneficial use.

(B) Increase water storage for beneficial use through a variety of onsite storage techniques.

(C) Increase groundwater supplies through infiltration, where appropriate and feasible.

(D) Support low-impact development for new and upgraded infrastructure and development using low-impact techniques.

(7) Activities that generate or contribute to the pollution of stormwater or dry weather runoff, or that impair the effective beneficial use of stormwater or dry weather runoff.

(8) Projects and programs to ensure the effective implementation of the stormwater resource plan pursuant to this part and achieve multiple benefits. These projects and programs shall include the development of appropriate decision support tools and the data necessary to use the decision support tools.

(9) Ordinances or other mechanisms necessary to ensure the effective implementation of the stormwater resource plan pursuant to this part.

(e) A stormwater resource plan shall use measurable factors to identify, quantify, and prioritize potential stormwater and dry weather runoff capture projects.

SEC. 4. Section 10563 of the Water Code is amended to read:

10563. (a) Nothing in this part interferes with or prevents the exercise of authority by a public agency to carry out its programs, projects, or responsibilities.

(b) Nothing in this part affects requirements imposed under any other provision of law.

(c) *(1)* The development of a stormwater resource plan and compliance with this part in accordance with Section 10565 shall be required to receive grants for stormwater and dry weather runoff capture projects from a bond act approved by the voters after January 1, 2014.

(2) This subdivision does not apply to funds provided for the purpose of developing a stormwater resource plan.

SEC. 5. Section 10565 is added to the Water Code, to read:

10565. By July 1, 2016, the board shall establish a policy for compliance with this part that shall include, but is not limited to, the following:

(a) Identifying local agencies and nongovernmental organizations that need to be consulted in developing a stormwater resource plan.

(b) Defining appropriate quantitative methods for identifying and prioritizing opportunities for stormwater and dry weather runoff capture projects.

(c) Defining the appropriate geographic scale of watersheds for stormwater resource planning.

(d) Other guidance the board deems appropriate to achieve the objectives of this part.

SEC. 6. Section 10573 of the Water Code is amended to read:

10573. Solely for the purposes of this part, and unless the context otherwise requires, the following definitions govern the construction of this part:

(a) "Developed or developing lands" means lands that have one or more of the characteristics described in subparagraphs (A) to (C), inclusive, of paragraph (4) of subdivision (b) of Section 56375.3 of the Government Code.

(b) "Rain barrel system" is a type of rainwater capture system that does not use electricity or a water pump and is not connected to or reliant on a potable water system.

(c) "Rainwater" means precipitation on any public or private parcel that has not entered an offsite storm drain system or channel, a flood control channel, or any other stream channel, and has not previously been put to beneficial use.

(d) "Rainwater capture system" means a facility designed to capture, retain, and store rainwater flowing off a building rooftop for subsequent onsite use.

(e) "Stormwater" has the same meaning as defined in Section 10561.5.

O